

REVISED ORDER

Based upon the foregoing FINDINGS AND CONCLUSIONS, and pursuant to Sections 308 and 309(a) of the Clean Water Act, 33 U.S.C. §§ 1318 and 1319(a), it is hereby ORDERED as follows:

2.1. Immediately upon receipt of this Order, Respondents shall cease all unauthorized discharges of dredged material, fill material, and other pollutants to:

- i. Sucker Creek;
- ii. the vegetated and unvegetated areas of the Site below the ordinary high water level; and
- iii. any other waters of the United States at the Site, including adjacent wetlands.

2.2. To implement interim removal actions to reverse the adverse effects of the discharges of fill material within Sucker Creek as described below:

- i. To encourage a natural hydrologic reconnection to Sucker Creek, Respondent shall remove all of the remaining channel blocking fill material (i.e., riprap rocks) that are larger than three (3) feet in diameter that were placed within the approximately 25 foot wide opening of the 2002 active channel of Sucker Creek. Any pieces of riprap larger than three (3) feet in diameter and less than 50% imbedded (i.e., only half of the rock surface is exposed above the gravel surface) within the creek channel shall be removed. However, to minimize impacts to coho salmon that might be utilizing the area, all removal activities shall be conducted from the access road or the downstream side of the fill material when and where there are dry conditions. All removal work shall be done only during low flow periods on Sucker Creek between June 15 and September 15.
- ii. All riprap/fill material that is removed shall be placed on upland areas that are away from either the active floodplain or wetland areas adjacent to Sucker Creek.
- iii. At least seventy-two (72) hours prior to commencing any activity on the Site that will result in the movement of fill material, Respondent shall provide verbal notification to the following person identified in the paragraph below, to verify that the proposed activities are in compliance with other environmental requirements such as state water quality standards, the Endangered Species Act, among others, and to arrange if necessary, for an on-site monitor designated by EPA to insure that these interim removal measures are carried out in conformance with this Compliance Order.

2.3. These interim removal measures shall be completed no later than September 15, 2004. Should this timeframe be technically or logistically infeasible, Respondents shall prepare a schedule for compliance and submit it for approval to :

Yvonne Vallette
U.S. Environmental Protection Agency
Oregon Operations Office
811 SW 6th Avenue, 3rd Floor
Portland, Oregon 97204

Tel: (503) 326-2716
Fax: (503) 326-3399

2.4. To report to Ms. Vallette at the above address, within five (5) days of final completion of the interim removal actions required in paragraph 2.2 of this Order. The report shall provide a written and photographic record confirming that the prescribed interim removal measures have been completed.

2.5. EPA encourages the Respondents to engage in informal discussion of the terms and requirements of this Order upon receipt. Such discussions should address any allegations herein which Respondents believe to be inaccurate or requirements which may not be attainable and the reasons therefore. Alternative methods to attain the objectives of this Order may be proposed. If acceptable to EPA, such proposals may be incorporated into amendments to this Order, at the discretion of EPA.

2.6. Respondents shall provide EPA and/or its designated representatives with access or obtain access for such persons to the Site and any off-Site areas to which access is necessary to determine compliance with this Order. These individuals shall be permitted to move freely at the Site and appropriate off-Site areas in order to conduct actions which EPA determines to be necessary.